

RESOLUTION NUMBER 6648

WHEREAS, the City of Beatrice, Nebraska, a Municipal Corporation ("City") was awarded grant funds from the Nebraska Department of Economic Development ("DED") to be used for Downtown Revitalization ("DTR"); and

WHEREAS, the City decided to use the DTR grant funds to implement a Façade Improvement Program for the downtown area; and

WHEREAS, David A. Sederberg and Beth A. Sederberg, husband and wife (jointly as "Borrower") entered into a Beatrice Façade Improvement Program Loan Agreement ("Loan Agreement") secured by a Promissory Note, Personal Guaranty, and Deed of Trust, as summarized in the Assumption Agreement, attached hereto as Exhibit "A"; and

WHEREAS, Borrower received a total of Ten Thousand Dollars (\$10,000) from the City as part of the Beatrice Façade Improvement Program to use for restorations of the real estate legally described as follows:

The North 22 feet 6 inches of the South Half of Lots Seven (7) and Eight (8), Block Thirty-six (36), Original Town, now City of Beatrice, Gage County, Nebraska.
(*"Property"*);

WHEREAS, Borrower has sold and transferred title of Property to Uhl's Sporting Goods, LLC, a Nebraska limited liability company; and,

WHEREAS, Uhl's Sporting Goods, LLC and Phillip W. Dittbrenner and Karen A. Dittbrenner, husband and wife (jointly as "Purchaser") desires to assume and agrees to assume all obligations as listed in the Assumption Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BEATRICE, NEBRASKA:

SECTION 1. That the Mayor and City Clerk are hereby authorized to execute the Assumption Agreement, Assumption of Personal Guaranty, and Assumption of Promissory Note, by and between the City of Beatrice, Borrower, and Purchaser, wherein Purchaser agrees to assume the Borrower's current indebtedness to the City, as evidenced by the Loan Agreement dated December 4, 2017 as part of the Beatrice Façade Improvement Program.

SECTION 2. That the Promissory Note dated December 4, 2017 and corresponding with the Loan Agreement shall be assumed by Purchaser.

SECTION 3. That Personal Guaranty dated November 17, 2017 and corresponding with the Loan Agreement shall be assumed by Purchaser.

SECTION 4. That the Mayor and City Clerk are hereby authorized to execute a Subordination Agreement, attached hereto as Exhibit "B", whereby the City agrees that the Deed of Trust dated November 29, 2017 and recorded on November 13, 2018 at Instrument No. 2018-3192 of the Public Records of the Register of Deeds of Gage County, Nebraska and corresponding with the Agreement, shall be subordinate to the interest of First National Bank of Omaha secured on December 4, 2020 in an amount not to exceed Two Hundred Five Thousand Dollars (\$205,000.00).

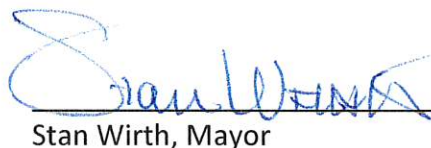
SECTION 5. That all resolutions or parts of resolutions in conflict herewith are hereby repealed.

RESOLUTION PASSED AND ADOPTED this 7th day of December, 2020.

Attest:



Erin Saathoff, CMC, City Clerk



Stan Wirth, Mayor

Exhibit "A"

ASSUMPTION AGREEMENT

WHEREAS, David A. Sederberg and Beth A. Sederberg, husband and wife, entered into a Beatrice Façade Improvement Program Loan Agreement dated December 4, 2017 as "Borrower," and City of Beatrice, Nebraska, a Municipal corporation as "Lender"; and,

WHEREAS, Borrower received a total of Ten Thousand Dollars (\$10,000) from Lender as part of the Beatrice Façade Improvement Program available by the Lender through a Community Development Block Grant (CDBG) from the Nebraska Department of Economic Development (DED) grant 15-DTR-109; and

WHEREAS, pursuant to the Beatrice Façade Improvement Program, Borrower and Lender entered into a Loan Agreement dated December 4, 2017, Promissory Note dated December 4, 2017, Personal Guaranty dated November 17, 2017, and Deed of Trust dated November 29, 2017 and recorded on November 13, 2018 at Instrument No. 2018-3192 of the Public Records of the Register of Deeds of Gage County, Nebraska; and

WHEREAS, the Deed of Trust dated November 29, 2017 and recorded on November 13, 2018 at Instrument No. 2018-3192 of the Public Records of the Register of Deeds of Gage County, Nebraska are regarding real estate legally described as follows, to wit:

The North 22 feet 6 inches of the South Half of Lots Seven (7) and Eight (8), Block Thirty-six (36), Original Town, now City of Beatrice, Gage County, Nebraska.
("Property");

WHEREAS, Borrower has sold and transferred title of Property to Uhl's Sporting Goods, LLC, a Nebraska limited liability company; and,

WHEREAS, Phillip W. Dittbrenner and Karen A. Dittbrenner are the owners of Uhl's Sporting Goods, LLC, a Nebraska Limited Liability Company; and,

WHEREAS, Uhl's Sporting Goods, LLC and Phillip W. Dittbrenner and Karen A. Dittbrenner, husband and wife, "Purchaser" desires to assume and agrees to assume Loan Agreement dated December 4, 2017, Promissory Note dated December 4, 2017, Personal Guaranty dated November 17, 2017, and Deed of Trust dated November 29, 2017 and recorded on November 13, 2018 at Instrument No. 2018-3192 of the Public Records of the Register of Deeds of Gage County, Nebraska; and

WHEREAS, all parties agree that said Purchaser, should be substituted for Borrower, as a party to said Loan Agreement dated December 4, 2017, Promissory Note dated December 4, 2017, Personal Guaranty dated November 17, 2017, and Deed of Trust dated November 29, 2017

and recorded on November 13, 2018 at Instrument No. 2018-3192 of the Public Records of the Register of Deeds of Gage County, Nebraska.

NOW, THEREFORE, for and in consideration of the mutual benefits hereby derived, Purchaser hereby agrees and assumes all rights and obligations of Borrower, as a party to said Loan Agreement dated December 4, 2017, Promissory Note dated December 4, 2017, Personal Guaranty dated November 17, 2017, and Deed of Trust dated November 29, 2017 and recorded on November 13, 2018 at Instrument No. 2018-3192 of the Public Records of the Register of Deeds of Gage County, Nebraska.

Borrower represents and covenants the following:

Uhl's Sporting Goods, LLC. is: (1) a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Nebraska; (2) has the power to enter into this Agreement and to borrow.

The making and performance by Purchaser of this Assumption Agreement, and the execution and delivery of the Promissory Note in a form satisfactory to Lender (the "note" or "Promissory Note") and the Personal Guaranty will not violate any law, rule, regulation, order, writ, judgment, decree, determination or award presently in effect having applicability to Uhl's Sporting Goods, LLC or any provision of its Articles of Organization or Operating Agreement or result in a breach of or constitute a default under any indenture or bank loan or credit agreement or any other agreement or instrument to which Uhl's Sporting Goods, LLC is a party or by which it or its property may be bound or affected.

When this Agreement is executed by Purchaser and Lender, when the Note is executed and delivered by Purchaser, when the Personal Guaranty is executed and delivered by Purchaser, each such instrument will constitute the legal, valid, and binding obligation of Purchaser in accordance with its terms. Any security agreements and instruments, financing statements, deeds of trust, mortgages, personal guaranty, and other liens on chattel or real estate will constitute legal, valid and binding liens.

There are no legal actions, suits, or proceedings pending or, to the knowledge of Purchaser threatened against Purchaser before any court or administrative agency, which if determined adversely to Purchaser would have a material adverse effect on the financial condition or business of Purchaser.

No authorization, consent or approval, or any formal exemption of any formal exemption of any Governmental body, regulatory authorities (federal, state, or local) or mortgagee, creditor or third party, is or was necessary for the valid execution and delivery by Purchaser of this Agreement.

The Purchaser is not in default of any obligation, covenant, or condition contained in any bond, debenture, note, or other evidence of indebtedness or any mortgage or collateral instrument securing the same.

The Purchaser has filed all tax returns which are required and has paid or made provision for the payment of all taxes which have or may become due pursuant to said returns or pursuant to any assessments levied against Purchaser or its personal or real property by any taxing agency, federal, state or local. No tax liability has been asserted by the Internal Revenue Service or other taxing agency, federal, state, or local for taxes materially in excess of those already provided for and Purchaser knows of no basis for any such deficiency assessment.

Purchaser certifies that there has been no adverse or material change since the date of the loan application in the financial condition, organization, operating, business prospects, fixed properties, or personnel of Purchaser.

The Purchaser further agrees to perform all of the obligations contained in the above described Loan Agreement and in all other instruments executed by Borrower or to be executed by Purchaser in connection with said Agreement.

The undersigned agree that this Assumption Agreement releases Borrower from its obligation under the Loan Agreement attached hereto, and from its obligations to fulfill all the terms, conditions and provisions of all instruments in connection therewith.

This Assumption Agreement shall be binding upon the principals, their heirs, executors, administrators, successors and assigns.

THEREFORE, for and in consideration of the premises and other good and valuable consideration, receipt of which is hereby acknowledged by Lender, the undersigned Purchaser hereby assumes and agrees to pay the current indebtedness evidenced by the original notes and Deeds of Trust, and any modification thereto and perform all of the obligations provided for therein.

That in all other aspects, all terms and conditions of the original note shall remain in full force and effect and Lender hereby releases and discharges the original Borrower upon their personal obligation under this debt.

This Assumption by the Purchaser shall bind them, together with their successors and assigns and shall be enforced and construed according to the Laws of the State of Nebraska.

IN WITNESS WHEREOF, the parties have hereunto executed this instrument this 7th
day of December, 2020.

LENDER:

THE CITY OF BEATRICE,
NEBRASKA, a Municipal
Corporation

BY: Stan Wirth

Stan Wirth, Mayor

Attest: Erin Saathoff

Erin Saathoff, City Clerk

BORROWER:

Beth A. Sederberg
Beth A. Sederberg

David A. Sederberg
David A. Sederberg

PURCHASER:

UHL'S SPORTING GOODS, LLC,
a Nebraska Limited Liability Company

By: Phillip W. Dittbrenner

Phillip W. Dittbrenner, Member

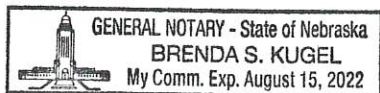
By: Karen A. Dittbrenner
Karen A. Dittbrenner, Member

Phillip W. Dittbrenner
Phillip W. Dittbrenner, Individually

Karen A. Dittbrenner
Karen A. Dittbrenner, Individually

STATE OF NEBRASKA)
) ss.
COUNTY OF GAGE)

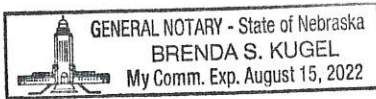
The foregoing instrument was acknowledged before me on this 3rd day of December, 2020 by
David A. Sederberg, to be his voluntary act and deed.



Brenda S. Kugel
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF GAGE)

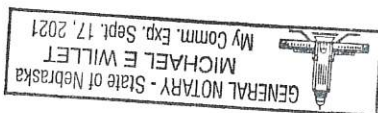
The foregoing instrument was acknowledged before me on this 31 day of December, 2020 by Beth A. Sederberg, to be her voluntary act and deed.



Brenda S. Kugel
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF GAGE)

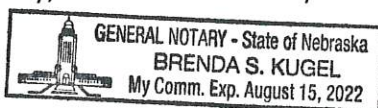
The foregoing instrument was acknowledged before me on this 2nd day of December, 2020 by Phillip W. Dittbrenner, as member of Uhl's Sporting Goods, LLC, a Nebraska limited liability company, to be his voluntary act and deed on behalf of the LLC.



Michael E Willet
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF GAGE)

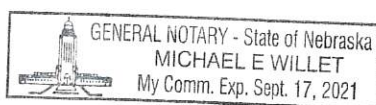
The foregoing instrument was acknowledged before me on this 2nd day of December, 2020 by Karen A. Dittbrenner, as member of Uhl's Sporting Goods, LLC, a Nebraska limited liability company, to be her voluntary act and deed on behalf of the LLC.



Brenda S. Kugel
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF GAGE)

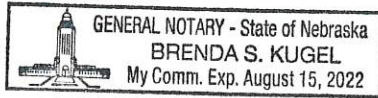
The foregoing instrument was acknowledged before me on this 2nd day of December, 2020 by Phillip W. Dittbrenner, to be his voluntary act and deed.



Michael E Willet
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF GAGE)

The foregoing instrument was acknowledged before me on this 2nd day of December, 2020 by Karen A. Dittbrenner, to be her voluntary act and deed.



Brenda S. Kugel
Notary Public

ASSUMPTION OF PERSONAL GUARANTY

Comes now, the undersigned, Phillip W. Dittbrenner and Karen A. Dittbrenner, and accepts and assumes the obligations and liabilities of the Personal Guaranty dated November 17, 2017 provided by David A. Sederberg and Beth A. Sederberg to the City of Beatrice pursuant to the Beatrice Façade Improvement Program Loan Agreement dated December 4, 2017 between David A. Sederberg and Beth A. Sederberg, and the City of Beatrice, Nebraska, all terms and conditions thereof, for Uhl's Sporting Goods, LLC, and Phillip W. Dittbrenner and Karen A. Dittbrenner as though the same had been made, executed and delivered to the City of Beatrice, Nebraska.

This Assumption of Personal Guaranty shall be binding upon the principal, his heirs, his personal representatives, successors, and assigns.

DATED this 2 day of December, 2020.



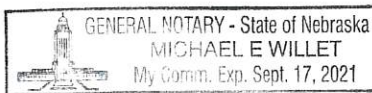
Phillip W. Dittbrenner, Individually



Karen A. Dittbrenner, Individually

STATE OF NEBRASKA)
) ss.
COUNTY OF GAGE)

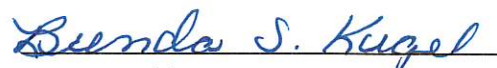
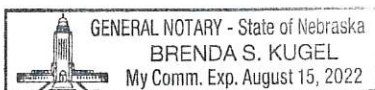
The foregoing instrument was acknowledged before me on this 2nd day of December, 2020 by Phillip W. Dittbrenner, to be his voluntary act and deed.



Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF GAGE)

The foregoing instrument was acknowledged before me on this 2nd day of December, 2020 by Karen A. Dittbrenner, to be her voluntary act and deed.



Notary Public

ASSUMPTION OF PROMISSORY NOTE

WHEREAS, The City of Beatrice, a Municipal Corporation (hereinafter referred to as "Lender") made a Loan Agreement dated December 4, 2017 to David A. Sederberg and Beth A. Sederberg, husband and wife, (herein after jointly referred to as "Borrower"), in the amount of \$10,000.00; and,

WHEREAS, these loans is evidenced by a Promissory Note executed by Borrower, dated December 4, 2017 and a copy of which is attached thereof and incorporated herein; and,

WHEREAS, Uhl's Sporting Goods, LLC, a Nebraska limited liability company, and Phillip W. Dittbrenner and Karen A. Dittbrenner, husband and wife, (hereinafter referred to as "Assumptor") unconditionally assumes and agrees to undertake the obligations of David A. Sederberg and Beth A. Sederberg;

NOW, THEREFORE, in consideration of the consent of Lender to the aforesaid transfer to Assumptor, the Assumptor hereby agrees to perform all of the obligations of David A. Sederberg and Beth A. Sederberg contained in the above Promissory Note dated December 4, 2017 and in all other instruments executed by David A. Sederberg and Beth A. Sederberg or to be executed by the Assumptor in connection with the Loan, including but not limited to the above described documents, as though the same had been made, executed and delivered by Assumptor instead of David A. Sederberg and Beth A. Sederberg.

This Assumption of Promissory Note shall be binding upon the principals, their heirs, personal representatives, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures and caused this instrument to be executed this 2nd day of December, 2020.

PURCHASER:

UHL'S SPORTING GOODS, LLC,
a Nebraska Limited Liability Company

BY: 

Phillip W. Dittbrenner, Member

BY: 

Karen A. Dittbrenner, Member



Phillip W. Dittbrenner, Individually



Karen A. Dittbrenner, Individually

CONSENT

The undersigned; David A. Sederberg and Beth A. Sederberg, hereby consents to this Assumption of Promissory Note.


BORROWER:

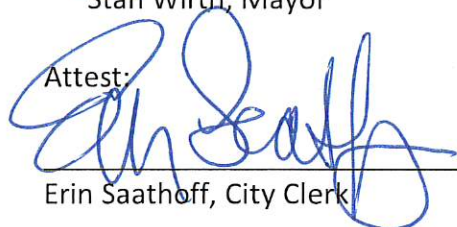
 
David A. Sederberg Beth A. Sederberg

APPROVAL

The above assumption and transfer of liability from David A. Sederberg and Beth A. Sederberg to Uhl's Sporting Goods, LLC and Phillip W. Dittbrenner and Karen A. Dittbrenner is approved and accepted.

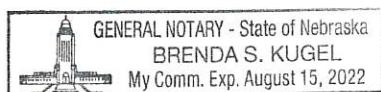
City of Beatrice, Nebraska
A Municipal Corporation

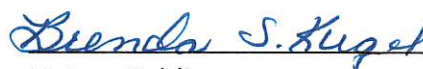
By: 
Stan Wirth, Mayor

Attest: 
Erin Saathoff, City Clerk

STATE OF NEBRASKA)
) ss.
COUNTY OF GAGE)

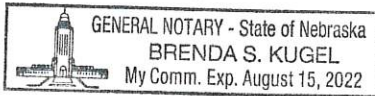
The foregoing instrument was acknowledged before me on this 3rd day of December, 2020 by David A. Sederberg, to be his voluntary act and deed.




Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF GAGE)

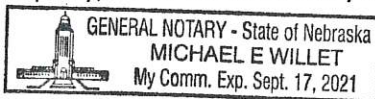
The foregoing instrument was acknowledged before me on this 3rd day of December, 2020 by Beth A. Sederberg, to be her voluntary act and deed.



Brenda S. Kugel
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF GAGE)

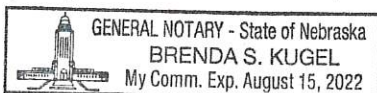
The foregoing instrument was acknowledged before me on this 2nd day of December, 2020 by Phillip W. Dittbrenner, as member of Uhl's Sporting Goods, LLC, a Nebraska limited liability company, to be his voluntary act and deed on behalf of the LLC.



Michael E. Willet
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF GAGE)

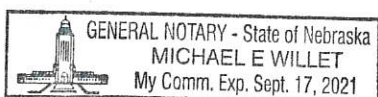
The foregoing instrument was acknowledged before me on this 2nd day of December, 2020 by Karen A. Dittbrenner, as member of Uhl's Sporting Goods, LLC, a Nebraska limited liability company, to be her voluntary act and deed on behalf of the LLC.



Brenda S. Kugel
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF GAGE)

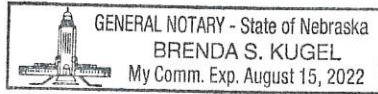
The foregoing instrument was acknowledged before me on this 2nd day of December, 2020 by Phillip W. Dittbrenner, to be his voluntary act and deed.



Michael E. Willet
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF GAGE)

The foregoing instrument was acknowledged before me on this 2nd day of December, 2020 by Karen A. Dittbrenner, to be her voluntary act and deed.



Brenda S. Kugel
Notary Public